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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
| 09/048,795 | 03/27/98 | ICHIZAKI | T 35.G2127 |

IM62/0621
FITZPATRICK CELLA HARPER & SCINTO
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|-------------|
| EXAMINER |
| ANDERSON, M |

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|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 1765 | 10 |

DATE MAILED: 06/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

| | |
|-------------------------------|--------------------------|
| Application No. 09/048,795 | Applicant(s) Ichizaki |
| Examiner Matt Anderson | Group Art Unit 1765 |



Responsive to communication(s) filed on 3/27/98

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-26 is/are pending in the application.

Of the above, claim(s) 3-26 is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1 and 2 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 4,8

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-2, drawn to apparatus, classified in class 117, subclass 204.
 - II. Claims 3-12, 17-23, drawn to apparatus, classified in class 432, subclass 156.
 - III. Claims 13-16, 24-26, drawn to process, classified in class 117, subclass 2.

2. The inventions are distinct, each from the other because of the following reasons:
Inventions III and I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)).
In this case, the apparatus (both Group I and Group II) would have utility for materially different processes such as the calcination of calcium hydroxide or aluminum hydroxide, refining molten metals, or float glass production.
Addtionally, Group I and Group II have a combination/subcombination relationship which is restrictable according to MPEP 806.05(c). The crucible has utility in other and different relations which include among others scrap metal remelting, virgin steel production, or arc melting refractory material such as are used in ZAS glass tank blocks.

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3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for one group is not required for either of the other groups, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Joe Ragusa on 6/11/99 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-2. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Priority

7. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/048,795 , filed on 3/27/98.

The claim is proper and is approved.

Specification

8. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

A copy of the specification incorporating the numerous changes of paper 5 is requested.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Tokuhara

(US 4,032,313).

Tokuhara describes an apparatus used for producing optical fibers by using crucibles.

The crucible is divided into multistages, each of which has an overflow passage on the sidewall (See Fig. 2.) Such an arrangement of crucibles reads on the claims of the applicant of a production apparatus having a crucible divided in multistages wherein a degassing hole is provided in a side wall portion of the crucible.

The applicant is reminded that use claims do not impart patentability. Please refer to MPEP 2111.02 and MPEP 2173.05(q). Please see the above MPEP sections for germane case law citations.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Anderson whose telephone number is (703) 308-0086. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are not successful, the examiner's supervisor, Benjamin Utech, can be reached at (703) 308-3836.

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Any inquiry of a general nature can be directed to the group receptionist whose telephone number is (703) 308-0661.

MAA

June 18, 1999

Mr. S. S.
BENJAMIN UTECH
PRIMARY EXAMINER
GROUP 1100